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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE 1513th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 March 2002, at 3.00 p.m.

Chairman: Mr. AMIR
(Vice-Chairman)

later: Mr. DIACONU
(Chairman)

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Sixteenth and seventeenth periodic reports of Costa Rica (CERD/C/384/Add.5; HRI/CORE/1/Add.104)

1. At the invitation of the Chairman, Ms. Ruiz de Angulo, Mr. Guillermet, Mr. Solano and Ms. Murillo (Costa Rica) took their places at the Committee table.

2. Ms. RUIZ DE ANGULO (Costa Rica) said that as indicated in its Note 12-663 of 17 December 2001, the Government of Costa Rica wished the written report submitted to the Committee (CERD/C/384/Add.5) and its oral presentation updating that document to be considered jointly at its sixteenth and seventeenth periodic reports.

3. Costa Rica was a multi-ethnic and pluricultural society whose national identity had been forged over the centuries through the intermingling of indigenous populations and settlers from other parts of the world and where a spirit of cooperation and respect for universal values prevailed. According to the 2000 census, in which minority groups had been requested to indicate their ethnic origin, the total population of 3,810,000 comprised 73,000 persons of Afro-Costa Rican, 64,000 of indigenous and 8,000 of Chinese culture. In addition there were 300,000 foreigners, of whom 230,000 were of Nicaraguan origin. The inclusion in the census of a question on ethnic identity represented an important step forward in enhancing the visibility of such groups with a view to identifying their needs and formulating suitable policies. The census had also shown that with regard to employment there was not a great difference between those groups and the rest of the population.

4. Costa Rica's legislation guaranteed equal rights for all inhabitants irrespective of their race, religion, sex, opinions, language, ethnic origin or social status. Articles 34 and 48 of the Constitution guaranteed equal access to the remedies of habeus corpus and amparo in the event of any violations. In accordance with Constitutional Court decision No. 6624-94, international human rights instruments took precedence over the Constitution. Article 19 of the Constitution prohibited any differentiation in treatment between nationals and foreigners and the guiding principle of Government policies was full respect for human rights without distinction. The Committee's comments with respect to Costa Rica's legislation had been brought to the attention of members of the legislature.

5. With regard to legislation relating to the indigenous people, in 1999 article 76 of the Constitution had been amended to make the State responsible for preserving the national indigenous languages. In 2002 the Constitutional Assembly had decided that International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries ranked equal with the Constitution. The Government was aware of the need to do more for the indigenous peoples, above all to provide them with better public services, education, housing and infrastructures. On the basis of the results of a survey covering the 22 indigenous reservations in Costa Rica, the Government had drawn up the first National Development Plan for the Indigenous Peoples of Costa Rica, which would form part of the

National Development Plan and in whose preparation civil society had been involved. As a result, in accordance with directive 31 of 12 October 2001, all organs of state must establish a special department to cater for the needs of indigenous citizens and their associations. Moreover the Office of the Ombudsman had undertaken a project to promote and protect the rights of indigenous peoples through the establishment of appropriate mechanisms.

6. The Government's commitment to the promotion and observance of human rights was reflected in its preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: five consultation meetings had been held with representatives of the State and civil society, including ethnic groups, to adopt a national position. Costa Rica's President had been one of the few world leaders at the Conference to make a public apology for the errors of the past affecting Afro-Costa Ricans. By way of follow-up and to commemorate National Human Rights Day, the Ministry of Foreign Affairs, in cooperation with the Latin American Faculty of Social Sciences (FLACSO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Canadian Embassy, had organized a seminar on the current situation of and prospects for ethnic minorities in Costa Rica in December 2001.

7. In recent years Costa Rica had made considerable efforts to develop a comprehensive migration policy. It would continue to be a host country for migrants, principally on account of its location and comfortable standard of living as well as its openness towards foreigners. As recognized by non-governmental organizations (NGOs), Government policy was never systematically discriminatory. Any isolated cases for which Government officials were responsible were investigated, punished and given coverage in the free press and media.

8. Costa Rica's migration policy had always taken account of the human rights of those who had to migrate for political or economic reasons in search of a better life. Despite the fact that, unlike most host countries, it was a developing country facing economic difficulties for decades Costa Rica had been providing education and health care for migrants, irrespective of their nationality, legal status or ability to pay social security contributions. It had also carried out international cooperation projects, including one with the International Organization for Migration (IOM) for the improvement of 205 schools with a large number of migrants. Costa Rica attached great importance to the shared responsibility of countries of migration and host countries and to international cooperation to cope with the needs of the hundreds of migrants crossing its frontiers every day. When it had run the Secretariat of the Regional Conference on Migration (RCM) in 2001-2002, it had reorganized the action plan into three main areas: management and migration policies; migration and development; and human rights. To strengthen the latter two areas it had proposed two new themes: integration of migrants and cross-border cooperation. Also worthy of note were the three amnesties for migrants declared over the last 12 years.

9. The development of a comprehensive migration policy had also been reflected in work on a new migration bill aimed at ensuring orderly migration with due regard for human rights. The bill included regulations on contracts for foreigners, penalties for employers who violated labour laws, classification of migrant trafficking as an offence and a system of labour categories. An important contribution in the area of migration had also been made by the Diplomatic Mission in Geneva in conjunction with IOM; in the form of proposals for effective migration

management and international projects. Such cooperation had culminated in a visit to the country by the IOM Director and the establishment of an IOM regional office in San José.

10. Costa Rica had submitted reports on matters related to migration in compliance with relevant resolutions of the Commission on Human Rights and the United Nations General Assembly (e.g. General Assembly resolution 55/92 on the protection of migrants). It had also co-sponsored resolutions on the protection of human rights by the General Assembly, the Economic and Social Council (ECOSOC) and the Commission on Human Rights. Moreover, it had played an active role in the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights, by hosting a Symposium on international migration in the Americas in 2000.

11. Educational and cultural activities designed to combat racial prejudice and to promote tolerance and understanding included the organization of "peace weeks" at educational institutions every year in June; the publication of new textbooks highlighting the importance of non-discrimination; the commemoration of International Day for the Elimination of Racial Discrimination on 21 March, as a follow-up to the Durban Conference; and the Christmas message delivered by the Ministry of Culture in 2001 about the different ethnic origins of Costa Ricans, whose national identity was based on respect and democracy. Following recommendations by the Committee and with the assistance of the ILO, workshops had been run for administrative officials in indigenous territories to inform them about the application of legislation protecting indigenous peoples' rights. The judiciary had also organized training programmes in indigenous territories and areas with a high number of migrants to educate people about basic rights and access to justice. Legal advice was available to minority groups in advice centres run by the universities and NGOs.

12. In accordance with the Constitution, foreigners enjoyed civil but not political rights; however, Afro-Costa Ricans and indigenous people were nationals and thus had the right to vote and to stand for election. During the general election of 3 February 2002, three Afro-Costa Ricans had been elected to Congress. A series of steps had been taken to guarantee migrant workers full enjoyment of their rights. The Ministry of Labour, through its 27 labour inspectorates, periodically carried out inspections and made employers comply with their social security obligations, as necessary. Moreover, since by law migrants under the age of 15 were not allowed to work, information campaigns were organized to combat abuses. Employment in the indigenous territories remained closely linked to the land. In recognition of the socio-economic problems facing those communities, various government bodies and NGOs had launched a number of training courses for them on craftsmanship, accounting and agriculture, resulting in some successful projects, such as the one in Talamanca for growing organic bananas.

13. With regard to the equitable distribution of land, she drew attention to the 1999 Constitutional Court ruling admitting an application by the Maleku community to recover its land and the existence of a customary law court in the indigenous territory of Cabagra - the only court of its kind competent to try indigenous land disputes. Legal migrants who met the necessary conditions in terms of employment and family situation were eligible for the housing allowance from the National Institute for Housing and Urban Development. The Ministry of Housing and Human Settlements had assessed the needs of indigenous communities and granted them housing subsidies, irrespective of whether their land was registered or not.

14. The policy of the Costa Rican Social Security Fund was to provide all inhabitants access to the full range of health services, including preventive care, vaccinations, supply of essential drugs and hospital treatment, without any discrimination, even with respect to migrants. The fact that migrants really benefited from such health services was borne out by the accounts of the Social Security Fund. Nicaraguans, for instance, received substantially more than they paid in. Noteworthy developments in health care for indigenous communities included the signing of an agreement between the Social Security Fund and the Buenos Aires regional indigenous organization ARADIKES in the Talamanca region for the involvement of practitioners of traditional medicine, as well as projects implemented by the Ministry of Health relating to extended immunization coverage, the eradication of malaria and dengue, infant nutrition and environmental care.

15. Costa Rican legislation guaranteed equal access to education for all, including migrants. The latter were also eligible for "school vouchers" - state subsidies for low-income families to help them keep their children in school - irrespective of nationality or legal status. Alongside the amendments to the Constitution relating to the protection, preservation and promotion of indigenous languages, subjects such as teaching in the mother tongue, indigenous culture and environmental studies had been incorporated in the curriculum of indigenous schools. Agreements had also been signed between the Ministry of Education and state universities to train indigenous teachers with a view to preserving indigenous culture and ensuring job security for staff of indigenous origin. Since for spiritual reasons the protection of the environment was of vital importance to indigenous communities, the Ministry of the Environment and Energy was promoting a series of projects for the conservation and rational use of resources in indigenous reservations.

16. The Ministry of Culture had organized various activities for the Afro-Costa Rican and indigenous communities, which included: the celebration of a Day of Cultures with arts and crafts fairs and round tables on ethnic identity issues; cultural events in cooperation with indigenous associations; and support for musical ensembles from the Cabagra indigenous territory for performances at home and abroad.

17. Due follow-up action was being given to the Government's decision in 1999 to adopt the amendment to Article 8 of the Convention. In that connection, she also recalled the Government's standing invitation to treaty monitoring bodies to visit Costa Rica. The sixteenth and seventeenth periodic reports had been the subject of broad consultations with national bodies, NGOs and minority groups throughout the various stages of their preparation. The Government had remained open to a dialogue with civil society with a view to reaching agreement on the best way of guaranteeing the enjoyment of internationally recognized rights. The Ministry of Foreign Affairs had elicited information from relevant state bodies with specific reference to the implementation of the Committee's observations and recommendations concerning the fifteenth periodic report. Lastly, she looked forward to a constructive dialogue with the Committee with a view to guaranteeing the inhabitants of Costa Rica the full enjoyment of their rights.

18. Mr. VALENCIA-RODRIGUEZ (Country Rapporteur) thanked the Government of Costa Rica for submitting a detailed report and the delegation for its introductory statement. Around 7 per cent of Costa Rica's population (approximately 4 million) were foreigners, mostly

Nicaraguans. Costa Rica had a tradition of granting asylum and according to recent estimates, was currently hosting some 7,000 refugees. There were 8 different ethnic groups identified among the indigenous population, which totalled 42,000 and were distributed over 22 indigenous reservations. Two per cent of the population was defined as Afro-Costa Rican. Paragraph 755 of the report (CERD/C/384/Add.5) highlighted the multi-ethnic nature of the population.

19. Under the Constitution, the country was governed in accordance with the principle of equality, which nonetheless, as illustrated in paragraph 3, allowed equal treatment of what was equal and unequal treatment of what was unequal. Article 33 of the Constitution prohibited any discrimination which was contrary to human dignity. Costa Rica was party to many regional and international human rights instruments. According to the report such instruments took precedence over the Constitution which was practically unique among States parties - and their provisions could be invoked directly in the national courts. Did that also apply to the International Convention on the Elimination of all Forms of Racial Discrimination?

20. Legislation providing penalties for racial discrimination included Act No. 7711 on the elimination of racial discrimination in educational programmes and the media and Act No. 7878 recognizing national indigenous languages. The Committee would like to be kept informed of the outcome of the application of such legislation in future. Particular attention should continue to be paid to difficulties arising in connection with implementing ILO Convention No. 169 and extending credit to the indigenous population, as referred to in paragraphs 43 and 49 respectively. It was regrettable that negotiations on the draft Act for the Autonomous Development of the Indigenous Peoples had been suspended. He hoped that the legal problems would be resolved and consideration of the draft Act would be resumed.

21. The Committee would like to know more about how the Government promoted the representation of ethnic minority communities in the judiciary and other State institutions. With regard to implementation of article 2 of the Convention, he noted that a number of bills to amend the existing legal framework for prohibiting racial discrimination were being considered in the Legislative Assembly; it was to be hoped that they would help overcome the persistent latent manifestations of racism to which paragraph 136 referred.

22. Welcoming the measures taken in favour of the migrant, Afro-Costa Rican and indigenous population (para. 153) and the initiation workshops in indigenous communities (paras. 154 to 162), the Committee asked for more information on those activities. Had they been successful? The Committee would also like to know how Costa Rica assessed the results of the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Office of the Ombudsman had conceded that there continued to be shortcomings in the manner in which the Costa Rican State cared for indigenous peoples (para. 204) and had referred to cases of discriminatory conduct directed against those populations (para. 205). He called upon the Government to adopt the necessary measures to deal with that situation and to inform the Committee of the results. According to a study (*"Informe sobre Pueblos Indígenas"*) by Gilbert González Maroto, the National Indigenous Affairs Commission had not fulfilled its main objective of coordinating policies and programmes to defend the interests of indigenous communities and had instead become a mechanism that divided them.

23. He sought information on how the State party was responding to General Recommendation XIX and the fact that in many cities residential patterns were influenced by group differences in income, which were sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants could be stigmatized and individuals suffered a form of discrimination in which racial grounds were mixed with other grounds. That was the case in particular in the San José urban area.

24. Turning to implementation of article 4 of the Convention, he called upon the Government to continue its review of criminal legislation to bring it into line with international norms. The Committee looked forward to further information on amendments to the Criminal Code and on the enforcement of articles 272, 274, 372 and 385 in cases involving racial discrimination. The Committee also enquired whether any conclusions had been reached on possibly regulating the use of the Internet to combat the dissemination of ideas promoting ethnic or racial discrimination.

25. As to implementation of article 5 of the Convention, he noted that in its concluding observations on Costa Rica's previous report, the Committee had stressed the importance of land ownership for the indigenous population. Referring to the invasion of land by migrant settlers and large landholders cited in the report (para. 326), he said that Costa Rica must step up its efforts to prevent that practice and recover seized land, and he called upon the Government to report to the Committee on action taken to that end.

26. With regard to the right to work, the report noted that despite legal measures adopted, there were still some situations where illegal immigrant workers were not treated equally (para. 240). The situation of migrant women and minors in particular required urgent attention. Women were the population group most affected by poverty. The Committee asked the Government to inform it about measures taken to address the working conditions of those groups. It was pleased that the Constitutional Court had invalidated article 13 of the Criminal Code placing limitations on the percentage of foreign workers employed in certain areas. The situation of domestic workers, who came primarily from Nicaragua, deserved special attention. Many of them did not receive any wages, but only room and board. What measures had been taken to improve their working conditions? He asked about the effectiveness of article 134 of the General Act on Migration and the Status of Aliens, which prohibited trafficking in illegal migrant workers (para. 371). He had read with interest that many indigenous communities had special ways of joining together for work through a system of borrowing and lending manpower (para. 429). He welcomed the training projects of indigenous groups and looked forward to receiving information on their results. But in spite of a number of initiatives, indigenous women suffered most work-related problems (para. 441). Afro-Costa Rican women were also widely affected. The Government must take firm, continuing measures to deal with those difficulties.

27. The Committee was aware that many projects were under way to improve the housing situation, but given the seriousness of the situation, greater efforts were needed. Special attention must be given to housing in the indigenous communities and the related impact of environmental pollution. Housing for indigenous persons must bear in mind traditional needs.

28. The Committee welcomed improvements for the indigenous population in the area of health care, although problems persisted. Thanking the delegation for the wealth of information

provided, he recommended that the Government continue to give close attention to that question. The Committee recognized the great progress achieved in combating illiteracy, but the persistence of prejudices regarding the Afro-Costa Rican and indigenous population (para. 663) was an obstacle to the implementation of educational programmes for those groups. Hence the need to step up measures and campaigns to overcome those stereotypes. With regard to environmental concerns, he drew the delegation's attention to the Committee's General Recommendation XXIII on the rights of indigenous peoples, and in particular the need to ensure that no decisions directly relating to their rights and interests were taken without their informed consent.

29. Turning to implementation of article 6 of the Convention, he noted that legal recourse was available to victims of discrimination. But as pointed out in paragraph 742, much remained to be done to guarantee effective access to the courts for the indigenous and Afro-Costa Rican population. How was the Government addressing that problem? The Committee welcomed the valuable information on implementation of article 7 of the Convention and the many activities and initiatives undertaken in that context. The Committee was particularly pleased that Costa Rica had ratified the amendment to article 8 of the Convention and that it had made the declaration under article 14 recognizing the Committee's competence to hear individual complaints. He finally called on the Government to ensure that its periodic report as well as the Committee's concluding observations and recommendations were widely publicized.

30. Mr. de GOUTTES commended Costa Rica on the regularity with which it had submitted its periodic reports, which showed its determination to meet its obligations under the Convention. The sixteenth report was exceptionally complete and detailed and contained many frank admissions of difficulties encountered in combating ethnic and racial discrimination. It acknowledged that in some areas criminal legislation was not in conformity with the Convention (paras. 22 and 23). The Committee looked forward to learning more about how that legislation was evolving.

31. The report also conceded that the situation of the indigenous population remained critical (paras. 202 and 203) and that there had been deficiencies in the Government's response to the influx of foreign migrants. In that context, he asked what part regional agreements had played in defining immigration policy and whether they had limited the freedom of movement of the national authorities. Conditions for detaining illegal immigrants were reported to be very bad. What measures were planned to improve the situation? Referring to paragraphs 302 to 304, he enquired what measures had been taken to facilitate access to the courts for the poorest segments of the population, in particular indigenous persons and immigrant workers. He also requested further information about the threats to indigenous lands referred to in paragraph 333.

32. Mr. THORNBERRY said that he sought clarification on what was meant in paragraph 22 by the phrase "racial discrimination is not classified as a crime but as a violation". With regard to paragraph 39, he asked whether Costa Rica had any plan to give indigenous languages the rank of official language. Concerning the references in the report to ILO Convention No. 169 (paras. 40 to 43), how had that instrument been incorporated into domestic legislation, and what had been its impact? Turning to paragraph 111, he asked whether Costa Rica had any objection to the use of the term "indigenous territories" when speaking of indigenous lands.

33. Citing a reference to the country's black ancestry (para. 116), he enquired whether Costa Rica's literature on tourism presented it as a multi-cultural and multi-ethnic or as a "white" country. Paragraph 142 stated that Costa Rica needed to rewrite its history to include groups other than Caucasians from the Central Valley. Would other groups be involved in such a task or would it be undertaken only by the dominant group? The Office of the Ombudsman had concluded that Government action in the indigenous territories was out of touch with reality (para. 204). How was it planned to remedy that situation? He asked what Costa Rica's position was regarding the draft Declaration on the Rights of Indigenous Peoples. Did it support the draft's language of self-determination? Did it endorse the proposed American declaration on the rights of indigenous populations (para. 231)? Paragraph 235 contained a telling observation about Nicaraguans who had chosen to adopt Costa Rican cultural ways, hiding their accent and other signs that "betrayed" their nationality. That suggested a hostile atmosphere towards that group. Could the delegation comment on that phenomenon?

34. The report contained a very interesting section on xenophobia on the Internet. The provision of legal advice and the assistance of an interpreter were basic international standards, and should specifically be ensured by law. In the light of the explanation of the terms "citizen" and "national" contained in paragraph 318, why did the report state in paragraph 320 that Afro-Costa Ricans and indigenous people were nationals, rather than citizens? What steps did the Government take to stop the invasion of indigenous lands by non-indigenous people? Could the delegation comment on the relationship between indigenous customary law and international human rights standards? Was the management of any territories in the country delegated to the Catholic church?

35. Mr. TANG Chengyuan asked to what extent domestic law conformed with the provisions of the Convention. Were there any criminal provisions against the incitement of racial hatred? How were illegal immigrants treated once they were apprehended? Were there any specific rules or regulations that applied to their treatment? Had there been any cases in which law enforcement officers took the law into their own hands and meted out excessive punishment, and if so, what procedures existed to deal with such officials? Was any compensation provided to the victims?

36. Mr. KJAERUM considered that the report was in many ways exemplary. It was particularly stimulating because it reflected the open dialogue that the Government had held with NGOs and others involved in combating racial discrimination. Of particular interest was the approach adopted by the Government in respect of the National Development Plan for the Indigenous Peoples of Costa Rica and the existence of customary law courts.

37. Discrimination against persons infected with HIV/AIDS had been discussed during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), and figured in the Durban Declaration and Programme of Action. The Committee would therefore be interested to learn how the State party dealt in practical terms with such cases. The report presented estimates of the size of the population of Nicaraguan origin, assuming current trends continued for 100 years. Such estimates could be quite counterproductive, as they could lead to unjustified apprehension or even hostility among the public, while their statistical value had not been proven.

38. Regarding land rights, he asked whether the central authorities had taken any initiatives against the invasion of indigenous territories by non-indigenous groups. Were there any plans to expand the National Development Plan for the Indigenous Peoples? Lastly, did the Government intend, in accordance with the Durban Declaration and Plan of Action, to establish a single, comprehensive plan of action to combat racism? The report itself could serve as a solid basis for drawing up such a policy.

39. Mr. BOSSUYT noted that Costa Rica had acceded to most international human rights instruments and that international treaties took precedence not only over national laws, but also over the Constitution. The sanctions imposed in cases of racial discrimination had been limited to fines, while, according to the report, international regulations called for up to 25 years' imprisonment. Which international instrument established such penalties? The report mentioned the adoption of a new law to ensure greater immigration control and to provide means of expelling illegal immigrants from the country. What means of expulsion were used? The Government had provided very detailed information on the number of foreigners in the country, and had indicated that since Hurricane Mitch in November 1998, massive numbers of Nicaraguans had arrived. Over 132,000 illegal immigrants had in the interim received papers in a general amnesty. Had the influx continued, and if so, what was the status of the newly arrived illegal immigrants? Who had filed the applications for amparo against that amnesty, to which paragraph 90 referred? Had the draft Ethnic and Linguistic Diversity Act been adopted?

40. The report stated that Nicaraguan immigrants had a propensity towards the use of violence to settle common disputes. On what basis did the Government make such a claim? It was of interest that domestic workers were often illegal immigrant girls, and as such were exposed to triple discrimination owing to their unofficial status, their gender and their age. Paragraph 318 provided an excerpt of a finding issued by the Constitutional Court, which apparently had distinguished between "nationality" and "citizenship". Had he understood correctly that a citizen was simply a national who enjoyed political rights by virtue of having attained the age of majority, or were other considerations taken into account? In which specific conditions should preference be given by law to national workers in respect of wages, advantages and working conditions?

41. Most Nicaraguans who had been returned to their country had been expelled as they attempted to cross the border. Was the risk of expulsion relatively minor once illegal immigrants had arrived in Costa Rica? How many of those who had been expelled later attempted to return? The impact of a large workforce of inexpensive foreign labour had been especially great in construction, agriculture and domestic services, with up to three-quarters of labourers in the latter area being Nicaraguan. The presence of many illegal foreign workers had, according to the report, raised unemployment among the national workforce and weakened the social security regime. He asked for clarification concerning the statistics in paragraphs 486 to 491 of the report concerning the contributions made by Nicaraguans to the social security health-care fund, and estimated expenditures in respect of that group. Similarly, according to the report, the presence of large numbers of foreigners had been a burden on the education system, as foreign schoolchildren tended to have higher drop-out rates and were generally further behind in their studies. Had the Government planned any special measures to deal with such problems?

42. Mr. Diaconu took the chair.

43. Mr. YUTZIS commended the Government for presenting a very comprehensive, excellent report, and for consulting with NGOs. One of the report's main qualities was that it recognized weaknesses in combating racial discrimination, which was by definition a very complicated process involving all levels of society. The report addressed the situation of Afro-Costa Rican communities, which was important because of the need acknowledged as part of the Durban process to recognize the plight of such peoples. It mentioned the fact that racist attitudes were reflected and perpetuated in the language of everyday life, including jokes and expressions. Changing such behaviour was very difficult, and would require educational efforts.

44. It would be useful if the Government could provide further information on the standards applied under the Indigenous Act for the expropriation and compensation of land, and if it could explain in what ways the Act's provisions differed from those of the ILO Convention No. 169 (1989) on Indigenous and Tribal Peoples. In the view of the delegation, what were the chances that the draft Act for the Autonomous Development of the Indigenous Peoples, which had been shelved owing to a parliamentary technicality, could be reintroduced and passed? The Committee had in its preceding concluding observations noted the importance of adopting that law.

45. Why did advertisements touting Costa Rica's attractiveness as a tourist destination abstain from showing its multiculturalism and cultural diversity, in particular the existence of the Afro-Latin American community? The report raised interesting questions concerning the media and the use of the Internet, including the dissemination by the media of the idea that a Chinese mafia was active in the country. How did the press depict the new wave of Colombian asylum-seekers? Were there any plans to draw up a code of ethics for the press and media to address such matters? How was the Government itself dealing with the influx of Colombian asylum-seekers? He had received information to the effect that the Government had changed its policy because of that phenomenon. What measures had been taken to facilitate conditions for those new arrivals?

46. Mr. LINDGREN ALVES said that the detailed, frank report was evidence of Costa Rica's endeavours to implement international human rights instruments to the letter. He had the impression that the difficulties encountered by the reporting State were shared by most Latin-American countries, but that the situation in Costa Rica was less serious than in many other parts of the continent. The fact that the State party communicated the Committee's comments to the Legislative Assembly was proof of the importance the Government of that State attached to the Committee's recommendations. For that reason, he wished to know if the delegation would again inform the Legislative Assembly of the Committee's dissatisfaction with the light punishment imposed for racial discrimination and would impress on parliament the need to amend the new Criminal Code so that it met the requirements of the Convention.

47. The standing invitation to United Nations rapporteurs to visit Costa Rica demonstrated the transparency and good will of the Government of that country and he hoped that the invitation also extended to the Committee, although it would be a miracle if the funds could be found for such a journey.

48. Ms. JANUARY-BARDILL said that the report was exemplary in its thoroughness and self-critical tone. Moreover it had described the impact of multiple discriminatory practices and trends on the lives of poor black women. The provision of that information was in line with

Recommendation XXV that gender discrimination should be incorporated in reporting practices. Paragraph 370 of the report had also contributed to the Committee's understanding of the manner in which the absence of reproductive health counselling affected the lives of female migrants. She therefore asked what steps were being adopted to address that particular issue and to teach people how to avoid HIV-AIDS infection. Secondly, she observed that paragraph 349 of the report was ambiguous and wondered if preference was given to national workers in access to employment, or if that paragraph referred solely to equal pay for equal work. Lastly, she inquired whether affirmative action was being taken to reduce the discrepancy between the living conditions of Afro-Costa Rican women and those of other members of society.

49. Mr. AMIR expressed the opinion that there was no greater scourge than illiteracy, since people who were unable to read or write could not vote or study the Constitution or Civil Code. They were therefore incapable of defending their interests peacefully and often resorted to violence, which was counterproductive, because it merely engendered a backlash. The Committee, through the role allotted to it by the Convention, was a tool for promoting democracy and combating discrimination. Education and training were the best means of eliminating discrimination and so Costa Rica should be commended on its achievements in the educational field. The latter had helped it to overturn the old order which had prevailed for centuries and which had been built on the blood of slaves. Costa Rica had become a free democracy and, for that reason, he was sure that the country would make further strides towards the elimination of racial discrimination. To that end, he encouraged it to keep up its efforts with regard to literacy.

50. Mr. YUTZIS, referring to paragraph 681 of the report, asked if non-indigenous applicants also had to obtain the approval of the Legislative Assembly for prospecting and mining.

51. Ms. RUIZ de ANGULO (Costa Rica) said that the invitation to treaty bodies to visit her country was quite sincere. The delegation would certainly apprise the Government and the Legislative Assembly of the Committee's concerns about the unsatisfactory punishment of racial discrimination and of the need to define the latter as a crime.

52. Turning to the question of State tourism bodies and the image they projected of the various peoples of the country, she explained that Costa Rica regarded the diversity of its population as one of its prime assets and was endeavouring to promote ecotourism. The culture and folklore of the Atlantic coast, where most people of African origin lived, was amply represented in the cultural festivals which accompanied presidential elections every four years.

53. Her country was making headway with the implementation of the Committee's recommendations and with the action advocated at the Durban Conference. For that purpose, it had held meetings and consultations with the groups concerned.

54. In response to the comments about literacy, she stated that her country's educational revolution had started at the beginning of the twentieth century. Primary and secondary schooling was free and compulsory and specific schemes had been launched, above all in rural areas, to discourage pupils in their early teens from dropping out. Costa Rica was aware that education was the key to personal advancement and to the progress of societies and nations. Over 98 per cent of the population were literate. Furthermore, many immigrants benefited from

instruction and vocational training organized specially for them. The Government of her country firmly believed in ensuring that migrants and ethnic minorities had access to education.

55. She finally thanked the Committee for its perceptive questions, which would help Costa Rica to comply even more scrupulously with its commitments under the Convention.

56. The delegation of Costa Rica withdrew.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

57. The CHAIRMAN welcomed Ms. Mary Robinson. The Committee looked forward to receiving guidance on how best to promote the follow-up to the Durban Conference.

58. Ms. ROBINSON (United Nations High Commissioner for Human Rights) stated, with reference to the Committee's part in the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the manner in which her office could help to reinforce the Committee's activities, that the Committee had a central role to play, since great emphasis had to be placed on monitoring the implementation of the Convention by every member State. She considered that the elaboration by the Committee of a standard paragraph for inclusion in all concluding observations would be most helpful in reporting and review procedures. She was particularly interested in the fact that the Committee intended to adopt a general comment on the follow-up to the Durban Conference, which would amount to an authoritative assessment from a body particularly well placed to gather information on the subject. The Declaration and the Programme of Action had made recommendations in areas where the Committee had already issued general recommendations and so, in its future examination of those topics, the Committee, when interpreting the Convention itself, might wish to consider the measures advocated in Durban, along with certain other thematic recommendations in fields which it had not yet scrutinized.

59. The Durban Declaration had called on States to draw up national plans of action to combat racial discrimination. It would be useful if the Committee, when perusing States parties' reports, were to ascertain whether and how those plans were being formulated and to what extent they were consistent with the Durban Programme of Action and with the Convention itself.

60. She announced that the Fifth Committee had, that day, discussed support from the regular budget for the staffing of the newly established interim Anti-Discrimination Unit. Her office was committed to organizing regional seminars on the implementation of the Durban Programme of Action, as well as seminars as part of the Third Decade to Combat Racism and Racial Discrimination and she therefore hoped that Committee members would be willing to participate as experts in those seminars.

61. The issue of the balance that had to be struck between the need for measures to counter terrorism and the necessary protection of human rights troubled her greatly because, in her visits to various countries, worrying questions had been raised as to whether standards had effectively changed since 11 September 2001. She had found it necessary to underline very firmly that such was not the case. She had also noted apprehension in the Middle East and Asia about a

resurgence of racial antagonism and xenophobia directed against South Asians and Arabs in the developed countries and about wide-sweeping legislation which operated in a very harsh way against them. She therefore hoped that, in its dialogue with States parties, the Committee would help to impart the message that international standards had not altered and must be upheld. In that context, she welcomed the contents of the Committee's letter of 11 October 2001.

62. As for the possibility of holding a Committee meeting at United Nations Headquarters in New York, she said that, while she was aware that a request to do so had been made in the year 2000, it was her responsibility to draw the Committee's attention to the fact that recent cuts in the Secretariat's travel budget had made it even more difficult for her office adequately to service treaty bodies outside Geneva. That decision had been taken late at night and its implications for the work of important human rights committees had not been fully appreciated. Nevertheless, there was no reason why the Committee should not pursue its request.

63. The CHAIRMAN thanked the High Commissioner for her replies and assured her that the subjects dealt with at the Durban Conference were borne in mind when the Committee considered States parties' reports. It was also keeping a close watch on certain States' attempts to maintain a balance between counter-terrorism and respect for human rights.

The meeting rose at 6.00 p.m.